

## **ABSTRAK**

### **ANALISIS PERTANGGUNGJAWABAN PIDANA PELAKU PENCURIAN DENGAN KEKERASAN BERDASARKAN PEMBUKTIAN ALTERNATIF (Studi Putusan Nomor: 159/Pid.B/2023/PN Tjk)**

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Tindak pidana pencurian dengan kekerasan merupakan salah satu jenis kejahatan harta benda yang paling meresahkan masyarakat karena tidak hanya menimbulkan kerugian materiel, tetapi juga mengancam keselamatan jiwa. Munculnya fenomena kejahatan dengan modus operandi yang kompleks menuntut optimalisasi sistem pembuktian guna mengungkap kebenaran materiel di persidangan. Penggunaan pembuktian alternatif, seperti integrasi rekaman CCTV dengan pengakuan pelaku dan saksi, menjadi krusial ketika bukti fisik utama sulit didapatkan secara utuh. Hal tersebut melatarbelakangi rumusan masalah dalam penelitian ini, yaitu: (1) Bagaimanakah pertanggungjawaban pidana terhadap pelaku tindak pidana pencurian dengan kekerasan berdasarkan pembuktian alternatif pada Putusan Nomor: 159/Pid.B/2023/Pn Tjk? dan (2) Bagaimanakah pertimbangan hakim dalam melakukan penjatuhan pidana terhadap pelaku pencurian dengan kekerasan pada Putusan Nomor: 159/Pid.B/2023/Pn Tjk.

Penelitian ini menerapkan pendekatan yuridis normatif dengan fokus pada kajian norma hukum positif dan dokumen tertulis terkait peristiwa hukum. Sumber data yang digunakan meliputi bahan hukum primer berupa peraturan perundang-undangan dan putusan pengadilan, serta bahan hukum sekunder dari literatur ilmiah dan jurnal hukum. Pengumpulan data dilakukan melalui studi kepustakaan (library research) yang selanjutnya diolah melalui tahap seleksi, klasifikasi, dan penyusunan data untuk dianalisis menggunakan metode kualitatif dengan penalaran deduktif.

Hasil penelitian dan pembahasan ini menunjukkan: (1) Pertanggungjawaban pidana terhadap Terdakwa Riko Bin Sulaiman bersifat mutlak karena telah terpenuhinya seluruh unsur perbuatan melawan hukum (PMH), kemampuan bertanggung jawab secara mental, serta adanya unsur kesalahan berupa kesengajaan (*dolus*). Pembuktian terhadap kesalahan tersebut juga didukung oleh penerapan pembuktian alternatif yang menggabungkan beberapa alat bukti yang saling bersesuaian untuk membangun keyakinan hakim meskipun barang bukti utama tidak dihadirkan secara langsung di persidangan. Melalui pembuktian alternatif yang mengombinasikan keterangan saksi korban, keterangan rekan pelaku, rekaman CCTV, dan pengakuan Terdakwa, terbukti adanya niat jahat (*mens rea*) yang

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diwujudkan dalam tindakan nyata (*actus reus*) mengambil uang sebesar Rp17.800.000,00 di bawah ancaman senjata api. (2) Pertimbangan hakim dalam menjatuhkan pidana penjara selama 2 tahun dan 6 bulan telah mengintegrasikan tiga aspek fundamental secara harmonis. Secara yuridis, hakim membuktikan seluruh elemen Pasal 365 ayat (2) ke-2 KUHP; secara filosofis, hakim menerapkan asas tiada pidana tanpa kesalahan; dan secara sosiologis, hakim mempertimbangkan dampak perbuatan yang meresahkan masyarakat serta membahayakan jiwa korban sebagai instrumen perlindungan ketertiban social seluruh elemen Pasal 365 ayat (2) ke-2 KUHP; secara filosofis, hakim menerapkan

Saran dari penelitian ini adalah: (1) Diperlukan pembaruan regulasi hukum acara pidana (KUHP) agar secara eksplisit mengatur kedudukan dan kekuatan pembuktian alat bukti elektronik seperti rekaman CCTV guna menjamin kepastian hukum dalam pembuktian komprehensif. (2) Aparat penegak hukum perlu meningkatkan profesionalitas, koordinasi, serta kapasitas teknis dalam pemanfaatan teknologi pendukung sejak tahap penyidikan hingga penuntutan untuk meminimalkan hambatan dalam proses peradilan dan mendukung tercapainya keadilan substantif.

**Kata Kunci: Pertanggungjawaban Pidana, Pencurian, Kekerasan.**

## **ABSTRACT**

### **ANALYSIS OF THE CRIMINAL LIABILITY OF PERPETRATORS OF THEFT WITH VIOLENCE BASED ON ALTERNATIVE PROOF**

**(Study of Decision Number: 159/Pid.B/2023/PN Tjk)**

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*Theft with violence is a type of property crime that is most unsettling to the public, as it not only results in material loss but also threatens human life. The emergence of criminal phenomena with complex modus operandi demands the optimization of the evidentiary system to uncover material truth during trials. The use of alternative proof, such as the integration of CCTV footage with the confessions of perpetrators and witnesses, becomes crucial when primary physical evidence is difficult to obtain in its entirety. This underlies the problem formulations in this research, namely: (1) How is the criminal liability of the perpetrator of theft with violence based on alternative proof in Decision Number: 159/Pid.B/2023/PN Tjk? and (2) What are the judge's considerations in sentencing the perpetrator of theft with violence in Decision Number: 159/Pid.B/2023/PN Tjk.*

*This research employs a normative legal approach, focusing on the study of positive legal norms and written documents related to legal events. The data sources used include primary legal materials in the form of laws and court decisions, as well as secondary legal materials from scientific literature and legal journals. Data collection was carried out through library research, which was subsequently processed through stages of selection, classification, and data arrangement to be analyzed using qualitative methods with deductive reasoning.*

*The results of this research and discussion indicate that: (1) the criminal liability of the Defendant, Riko Bin Sulaiman, is absolute because all elements of an unlawful act (PMH), the mental capacity to be responsible, and the element of fault in the form of intent (dolus) have been fulfilled. The proof of this fault is also supported by the application of alternative evidence, which combines several pieces of evidence that correspond with one another to establish the judge's conviction, even though the main physical evidence was not presented directly in court. Through alternative proof combining the testimony of the victim, the testimony of the accomplice, CCTV recordings, and the Defendant's confession, the existence of criminal intent (mens rea) was proven, which was manifested in a real act (actus reus) of taking Rp17,800,000 under the threat of a firearm.*

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*(2) The judge's consideration in imposing a prison sentence of 2 years and 6 months has integrated three fundamental aspects harmoniously. Juridically, the judge proved all elements of Article 365 paragraph (2) point 2 of the Indonesian Criminal Code; philosophically, the judge applied the principle of no punishment without fault; and sociologically, the judge considered the impact of the act that disturbed public order and endangered the victim's life as an instrument for protecting social order.*

*The recommendations of this study are as follows: (1) There is a need to reform criminal procedural law (the Criminal Procedure Code/KUHAP) to explicitly regulate the legal standing and evidentiary weight of electronic evidence, such as CCTV recordings, in order to ensure legal certainty in comprehensive evidentiary processes. (2) Law enforcement officials should enhance professionalism, inter-agency coordination, and technical capacity in the utilization of technological tools from the investigation stage through prosecution, so as to minimize procedural obstacles and support the realization of substantive justice.*

**Keywords: Criminal Liability, Theft, Violence.**